

REMARKS

The office action of April 16, 2007, has been carefully considered.

It is noted that claims 1-14 are rejected under 35 U.S.C. 112, second paragraph.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) over the patent to Lorscheidt in view of the patent to Moss.

Relative to the Information Disclosure Statement filed October 13, 2005, there was no second sheet. The indication of a second sheet was a typographical error.

In view of the Examiner's rejections of the claims, applicant has amended claims 1 and 3-6, and added new dependent claim 15.

It is respectfully submitted that the claims now on file particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended the claims to address the instances of indefiniteness pointed out by the Examiner.

In view of these considerations it is respectfully submitted that the rejection of claims 1-14 under 35 U.S.C. 112, second paragraph is overcome and should be withdrawn.

It is respectfully submitted that the claims presently on file differ essentially and in an unobvious, highly advantageous manner from the constructions disclosed in the references.

Turning now to the references and particularly to the patent to Lorscheidt, it can be seen that this patent discloses a device for exposing a mass stored in a container. The teachings of this reference are similar to the teachings of GM 76 13 989 discussed in the specification of the present application. From these references it is known to seal the closing cap, with the aid of a sealing lip, against the housing so that upon removal of the closing cap the stick compound in the container is pushed a certain distance by the negative pressure produced by removing the cap. The patent to Moss discloses a soap holder. The Examiner combined Moss with Lorscheidt in determining that claims 1 and 5 would be unpatentable over such a combination. The problem with such a construction is that upon application the stick compound is pushed back into the housing.

Applicant respectfully submits that neither of these references, nor their combination, teach a dispenser stick as in the present invention. The object of the present invention is to prohibit the disadvantageous pushing back of the stick compound into the housing, and to do so with a simple construction. The combination of references does not teach a construction which prevents such a pushing back of the stick, as in the presently claimed invention. There is no teaching by the references of a closure cap having a double wall construction with an inner cap that can be displaced axially relative to the closure cap. By screwing the closure cap onto the housing the inner cap rests against the stick compound and upon further screwing on of the closure cap the inner cap is pressed axially into the closure cap. Such a construction is not taught by a combination of the references.

Furthermore, the combination of references does not teach an inner cap elastically connected with the closure cap in the axial direction by means of a spring element, as recited in claim 3 of the present application.

MY-30

In view of these considerations it is respectfully submitted that the rejection of claims 1 and 5 under 35 U.S.C. 103(a) over a combination of the above-discussed references is overcome and should be withdrawn.

Reconsideration and allowance of the present application are respectfully requested.

Any additional fees or charges required at this time in connection with this application may be charged to Patent and Trademark Office Deposit Account No. 11-1835.

Respectfully submitted,

By   
Klaus P. Stoffel  
Reg. No. 31,668  
For: Friedrich Kueffner  
Reg. No. 29,482  
317 Madison Avenue, Suite 910  
New York, New York 10017  
(212) 986-3114

Dated: July 16, 2007



MY-30

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, PO Box 1450 Alexandria, VA 22313-1450, on July 16, 2007.

By: Klaus P. Stoffel

Date: July 16, 2007